

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
COOKEVILLE DIVISION

JEFFREY W. TUNKS,

Plaintiff

v.

CITY OF COOKEVILLE, et al.

Defendants

NO. 2:07-CV-0065

Judge Haynes

ORDER
This motion
is DENIED
for the
reasons
set forth
on
defendants'
response.
Will [signature]
11-8-10

**MOTION TO DENY DEFENDANTS RANDALL WEIKER, DANNY DYER,
MARK S. WEBB, CITY OF COOKEVILLE AND THE COOKEVILLE POLICE
DEPARTMENT'S MOTION FOR SUMMARY JUDGMENT WITHOUT
PREJUDICE TO REILING**

Comes the Plaintiff, by and through his Attorney, and respectfully requests this Court to enter an Order denying Defendants' Motion for Summary Judgment without prejudice to refiling after discovery is complete pursuant to Rule 56(f) of the Federal Rules of Civil Procedure.

Alternatively, the Plaintiff would request this Court, again pursuant to Rule 56(f) to "order a continuance to enable affidavits to be obtained, depositions to be taken, or other discovery to be undertaken"; or, pursuant to subsection (3) "issue any other just Order".

Plaintiff would rely upon the attached Affidavit of his Counsel. This Affidavit is filed pursuant to the holding in Comm. for the 1st Amendment v. Campbell, 962 F.2d 1517, 1522 (10th Cir. 1992) that "a party seeking to defer a ruling on Summary Judgment under Rule 56(f) must file an Affidavit that explains why facts precluding Summary Judgment cannot be presented. This includes identifying the probable facts not available and what steps have been taken to obtain these facts". It is incumbent upon the non-